

TUESDAY, AUGUST 7, 2001

SIXTY-SIXTH LEGISLATIVE DAY

Pursuant to Senate Joint Resolution No. 474, the House of Representatives of the One Hundred Second General Assembly met in Regular Session at 12:00 p.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Reverend Steven Handy, Gordon Memorial United Methodist Church, Nashville, Tennessee.

Representative Langster led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present.....99

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 99.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 2040 -- Appropriations - Removes from appropriations act provisions prohibiting disbursement of BEP funds and reduction in higher education appropriations. by *Winningham.

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

***House Bill No. 2041** -- Appropriations -- House Finance, Ways and Means Committee

RULES SUSPENDED

Rep. Davidson moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 591 out of order, which motion prevailed.

House Joint Resolution No. 591 -- General Assembly, Adjournment - Adjourns 2001 session of general assembly on August 7, 2001, and convenes 2002 session at noon on January 8, 2002. by *Davidson.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Davidson, and seconded by Rep. McDaniel, the resolution was adopted.

A motion to reconsider was tabled.

RECESS MOTION

On motion of Rep. Davidson, the House stood in recess until 2:00 p.m.

**ENGROSSED BILLS
August 7, 2001**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 591.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE
August 7, 2001**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 590 and 591; all concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

RECESS EXPIRED

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

ROLL CALL DISPENSED WITH

On motion of Rep. Davidson, the roll call was dispensed with.

UNFINISHED BUSINESS

MESSAGE FROM THE GOVERNOR

Pursuant to **Rule No. 78**, the Clerk read the Governor's veto of House Bill No. 2038 and the same was ordered spread upon the Journal:

***House Bill No. 2038** — Appropriations - Appropriates funds for 2001-2002. by *Kisber, *Kent, *Head, *Garrett. (SB2000 by *Henry, *Crutchfield, *Atchley, *Kyle)

GOVERNOR'S STATEMENT ON HOUSE BILL NO. 2038

I am vetoing House Bill 2038 / Senate Bill 2000. This bill fails to adequately meet the needs of the citizens of Tennessee.

This budget is fiscally irresponsible. This bill uses one-time money to pay for recurring expenses. In fact, it uses four years of tobacco settlement payments, one of which we have yet to receive, totaling approximately \$557 million, to cover annual expenses. The bill does not provide adequate wage increases for our state employees and does not fund the reading initiative that would help insure that all our children can read by the third grade. Even basic maintenance of many of our state's buildings is omitted from this budget.

More than two years ago, we set upon a course to correct the state's ever worsening fiscal crisis while continuing to fund the states essential services and invest for the future. While we have yet to solve the state's revenue crisis, it is imperative that we continue to provide leadership for the people in our state—that we pass a budget that is forward looking and makes investments for our children. We can, and simply must do better than this budget.

Each legislator takes an oath that he or she will not propose or assent to any bill that appears "injurious" to the people. I believe that this bill is certain to cause our great state irreparable injury and puts our state on the path toward disaster. Our citizens want us to lead our state out of this crisis. Our citizens deserve a better budget. I am, therefore, returning House Bill 2038 / Senate Bill 2000 with my veto.

MOTION TO OVERRIDE VETO

***House Bill No. 2038** — Appropriations - Appropriates funds for 2001-2002. by *Kisber, *Kent, *Head, *Garrett. (SB2000 by *Henry, *Crutchfield, *Atchley, *Kyle)

Rep. Kisber moved that House Bill No. 2038 be passed on third and final consideration notwithstanding the objections of the Governor, pursuant to Article 3, Section 18, of the Constitution of the state of Tennessee.

Rep. Bittle moved the previous question, which motion failed.

After further debate, Rep. Rhinehart moved the previous question, which motion prevailed by the following vote:

Ayes	62
Noes	29

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Representatives voting aye were: Arriola, Baird, Beavers, Bittle, Black, Bone, Boyer, Briley, Buck, Bunch, Buttry, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), Ford, Fowlkes, Fraley, Garrett, Hagood, Hargett, Harwell, Head, Hood, Johnson, Jones S, McCord, McDonald, McKee, McMillan, Montgomery, Mumpower, Newton, Overbey, Patton, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Rinks, Roach, Rowland, Sargent, Scroggs, Sharp, Shepard, Tidwell, Tindell, Todd, Turner (Davidson), Vincent, West, Westmoreland, Whitson, Williams, Windle, Winningham, Wood -- 62.

Representatives voting no were: Armstrong, Bowers, Brooks, Brown, Chumney, Cooper, DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Givens, Goins, Hargrove, Jones U, Kernell, Langster, Lewis, Maddox, Miller, Odom, Ridgeway, Shaw, Stanley, Towns, Turner (Hamilton), Turner (Shelby), Walker, White -- 29.

Rep. Kent moved that **House Bill No. 2038** be passed on third and final consideration notwithstanding the objections of the Governor, which motion prevailed by the following vote:

Ayes	66
Noes	33

Representatives voting aye were: Arriola, Baird, Beavers, Bittle, Black, Bone, Boyer, Briley, Buck, Bunch, Buttry, Cole (Dyer), Davidson, Davis (Washington), Davis (Cocke), Dunn, Ferguson, Fowlkes, Fraley, Garrett, Godsey, Hagood, Hargett, Harwell, Head, Hood, Johnson, Jones S, Kent, Kernell, Kisber, McCord, McDonald, McKee, McMillan, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Rhinehart, Rinks, Roach, Rowland, Sands, Sargent, Sharp, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Davidson), Vincent, West, White, Williams, Winningham, Wood, Mr. Speaker Naifeh -- 66.

Representatives voting no were: Armstrong, Bowers, Brooks, Brown, Caldwell, Chumney, Clem, Cole (Carter), Cooper, Curtiss, DeBerry J, DeBerry L, Fitzhugh, Ford, Givens, Goins, Hargrove, Jones U, Langster, Lewis, Maddox, McDaniel, Miller, Pruitt, Ridgeway, Scroggs, Shaw, Towns, Turner (Shelby), Walker, Westmoreland, Whitson, Windle -- 33.

House Bill No. 2038, having received a constitutional majority, was thereby declared passed, notwithstanding the objections of the Governor, pursuant to Article 3, Section 18 of the Constitution of the state of Tennessee.

A motion to reconsider was tabled.

REMARKS

Rep. Goins requested that the following remarks be spread upon the Journal:

In voting to sustain Governor Don Sundquist's veto today I am not affirming his position in support of raising additional revenue. I voted to sustain the veto today because the budget the General Assembly passed is not fiscally conservative. The budget that has passed will place the State in a \$220 million deficit next fiscal year. The budget problems we will face in future years will be compounded because of the action the General Assembly has taken today.

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In regards to the income tax issue, I believe that an income tax is unconstitutional based on the Tennessee Constitution and case law that stands today.

REMARKS

Rep. Turner (Hamilton) requested that the following remarks be spread upon the Journal:

I have given a great deal of thought to the vote that was asked to be cast today on HB2038. I fully understand the explanation of the Governor and I agree with him on certain points. I do not believe that our tax structure in Tennessee is a good one. I believe that we should take the sales tax off clothing, and food and reduce it on several other large items. I believe this would be helpful for the people in the 29th District and further tax reform should be presented, heard, and acted upon in a special session rather than this particular time. As I have seen and discussed with my fellow members today, this is not the time to continue our discussion over tax reform. I was taught, earlier in life by my late father, the Honorable James Bookie Turner, that success and politics is all timing. This is not the time to persuade nor debate tax reform. Schools must open, our state employees must have their insurance and we must be home within our district. For these specific reasons, I cast my vote to override the governor's veto on HB 2038 and further, I would like to suggest that a special session to review our revenue structure is order.

RECESS MOTION

On motion, the House stood in recess until 4:00 p.m.

MESSAGE FROM THE SENATE August 7, 2001

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2002; passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

***Senate Bill No. 2002** -- Appropriations - Removes from appropriations act provisions prohibiting disbursement of BEP funds and reduction in higher education appropriations. by *McNally, *Crowe, *Atchley, *Carter, *Graves, *Burks, *Trail, *Crutchfield, *Williams. (HB2040 by *Winningham)

MESSAGE FROM THE SENATE
August 7, 2001

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 476, 480 and 481; all adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

Senate Joint Resolution No. 476 -- Memorials, Public Service - Harold K. Lester, Pastor at Orchard Knob Missionary Baptist Church. by *Crutchfield.

Senate Joint Resolution No. 480 -- Memorials, Public Service - Pete Esser, Publisher of the Oak Ridger. by *McNally.

Senate Joint Resolution No. 481 -- Memorials, Death - Dr. William S. Bates. by *McNally.

MESSAGE FROM THE SENATE
August 7, 2001

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2038; repassed by the Senate, the Governor's objections to the contrary notwithstanding; pursuant to Article 3, Section 18 of the Constitution of the state of Tennessee.

RUSSELL A. HUMPHREY, Chief Clerk.

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for August 7, 2001:

House Resolution No. 182 -- Memorials, Recognition - Mrs. Johnnie Mae Peters. by *Cooper B.

House Resolution No. 183 -- Memorials, Recognition - Tuskegee Airmen Inc.,- Organization of Black Airline Pilots National Convention. by *Brooks.

SENATE JOINT RESOLUTIONS
(Congratulatory and Memorializing)

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for August 7, 2001:

Senate Joint Resolution No. 476 -- Memorials, Public Service - Harold K. Lester, Pastor at Orchard Knob Missionary Baptist Church. by *Crutchfield.

Senate Joint Resolution No. 480 -- Memorials, Public Service - Pete Esser, Publisher of the Oak Ridger. by *McNally.

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Senate Joint Resolution No. 481 -- Memorials, Death - Dr. William S. Bates. by *McNally.

RECESS EXPIRED

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

ROLL CALL DISPENSED WITH

On motion of Rep. Davidson, the roll call was dispensed with.

CONSENT CALENDAR

House Resolution No. 183 -- Memorials, Recognition - Tuskegee Airmen Inc.,- Organization of Black Airline Pilots National Convention. by *Brooks.

House Resolution No. 182 -- Memorials, Recognition - Mrs. Johnnie Mae Peters. by *Cooper B.

Senate Joint Resolution No. 476 -- Memorials, Public Service - Harold K. Lester, Pastor at Orchard Knob Missionary Baptist Church. by *Crutchfield.

Senate Joint Resolution No. 480 -- Memorials, Public Service - Pete Esser, Publisher of the Oak Ridger. by *McNally.

Senate Joint Resolution No. 481 -- Memorials, Death - Dr. William S. Bates. by *McNally.

Rep. Kisber moved that all members voting aye on Senate Joint Resolution No. 481 be added as sponsors, which motion prevailed.

Rep. Brooks moved that all members voting aye on House Resolution No. 183 be added as sponsors, which motion prevailed.

Rep. Cooper moved that all members voting aye on House Resolution No. 182 be added as sponsors, which motion prevailed.

On motion, all members voting aye on Senate Joint Resolution(s) No(s). 476 and 480 be added as sponsors, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

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Ayes99
Noes0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh – 99.

A motion to reconsider was tabled.

RULES SUSPENDED

On motion of Rep. Davidson, and seconded by Rep. McDaniel, the rules were suspended to introduce and pass the following bills on first consideration:

House Bill No. 2042 -- Medina - Subject to local approval, revises charter. Amends Chapter 96 of the Private Acts of 1991. by *Phelan.

House Bill No. 2043 -- Adamsville - Subject to local approval, authorizes levy of hotel/motel tax. by *Rinks.

RULES SUSPENDED

Rep. Patton moved that the rules be suspended for the purpose of introducing House Resolution No. 184 out of order, which motion prevailed.

House Resolution No. 184 -- Memorials, Personal Occasion - Mr. and Mrs. Ralph D. Bagaley, 50th Wedding Anniversary. by *Patton.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Patton, the resolution was adopted.

A motion to reconsider was tabled.

JOURNAL APPROVED

On motion of Rep. Davidson, the Journal of the House of Representatives and the proceedings thereof were approved for the Sixty-Sixth Legislative Day of the First Regular Session.

SELECT COMMITTEE APPOINTMENT

The Speaker announced that he had appointed the following committee to notify the Senate that the House had completed its business for this session and was ready to adjourn: Representative Davidson.

SELECT COMMITTEE APPOINTMENT

The Speaker announced that he had appointed the following committee to notify the Governor that the House had completed its business for this session and was ready to adjourn: Representative McDaniel.

SENATE READY TO ADJOURN

Senator Dixon notified the House that the Senate had completed its business and was ready to adjourn.

MESSAGE FROM THE SENATE

August 7, 2001

MR. SPEAKER: I am directed by the Senate to notify the House that the Senate has completed its business for the First Regular Session of the One Hundred Second General Assembly and is ready to adjourn until noon, Tuesday, January 11, 2000, in accordance with House Joint Resolution No. 591.

RUSSELL A. HUMPHREY, Chief Clerk.

REPORT OF SELECT COMMITTEES

Rep. Davidson reported to the House that the Senate had been notified that the House had completed its business for this session and was ready to adjourn.

Rep. McDaniel reported to the House that the Governor had been notified that the House had completed its business for this session and was ready to adjourn.

ROLL CALL

The roll call was taken with the following results:

Present.....96

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Representatives present were: Armstrong, Arriola, Baird, Bittle, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

RECESS MOTION

Thereupon, in accordance with House Joint Resolution No. 591, Rep. Davidson moved that the House stand adjourned. Mr. Speaker Naifeh declared the First Regular Session of the House of Representatives of the One Hundred Second General Assembly adjourned until twelve o'clock noon (12:00) on Tuesday, January 8, 2002.

**MESSAGE FROM THE SENATE
August 8, 2001**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 21; also, Senate Joint Resolution(s) No(s). 476, 480 and 481 for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED
August 8, 2001**

The Speaker signed the following: Senate Bill(s) No(s). 21; also, Senate Joint Resolution(s) No(s). 476, 480 and 481.

**ENROLLED BILLS
August 8, 2001**

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Joint Resolution(s) No(s). 590, 591; also, House Resolution(s) No(s). 182, 183 and 184.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED
August 8, 2001**

The Speaker signed the following: House Bill(s) No(s). ; House Joint Resolution(s) No(s). 590, 591; also, House Resolution(s) No(s). 182, 183 and 184.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

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**MESSAGE FROM THE SENATE
August 8, 2001**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 590 and 591; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**REPORT OF CHIEF ENGROSSING CLERK
August 8, 2001**

The following bill(s) have been transmitted to the Governor for his action: House Joint Resolution(s) No(s). 590 and 591.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR
August 17, 2001**

MR. SPEAKER: I am directed by the Governor to return herewith: House Joint Resolution(s) No(s). 590, with his approval.

JAY BALLARD, Counsel to the Governor.

**MESSAGE FROM THE GOVERNOR
August 17, 2001**

MR. SPEAKER: I am directed by the Governor to return herewith: House Joint Resolution(s) No(s). 591, without his signature.

JAY BALLARD, Counsel to the Governor.

COMMUNICATION

August 29, 2001

Representative Matt Kisber
33 Legislative Plaza
Nashville, TN 37243

Dear Matt:

I hereby appoint you to serve on the study group to review the structure and responsibilities of the Tennessee Higher Education Commission. This appointment is made pursuant to the terms of Chapter 433 of the Public Acts of 2001, of which a copy is attached.

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I have every confidence in your talent and ability and appreciate very much your willingness to serve on this very important study group.

Sincerely,
Jimmy Naifeh

JN/dh

cc: Governor Sundquist
Lieutenant Governor Wilder
Justin Wilson
C. Warren Neel
Ellen Tewes
Connie Frederick

COMMUNICATION

August 29, 2001

Mr. Barry Ward, esq.
1700 One Commerce Square
Memphis, TN 38103

Dear Barry:

I hereby appoint you to serve on the Judicial Selection Commission to assist the Governor in finding and appointing the best qualified persons available for service on the courts of Tennessee. This appointment is made pursuant to the terms of Chapter 459 of the Public Acts of 2001, of which a copy is attached.

I have every confidence in your talent and ability and appreciate very much your willingness to serve the people of the state of Tennessee.

Sincerely,
Jimmy Naifeh

JN/nw

cc: Governor Sundquist
Connie Clark
Joan W. Goddard
Liza Hazlett